

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

OCIE ALFONSO MITCHELL, JR., a/k/a  
MICHAEL ALFONZO MITCHELL,

Defendant-Appellant.

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UNPUBLISHED  
September 28, 2001

No. 224540  
Kalamazoo Circuit Court  
LC No. 99-000242-FH

Before: Holbrook, Jr., P.J., and Cavanagh and Meter, JJ.

MEMORANDUM.

Defendant appeals as of right from jury trial convictions for negligent homicide, MCL 750.324, unlawful driving away of a motor vehicle (UDAA), MCL 750.413, and resisting arrest, MCL 750.479. Defendant was sentenced as a fourth habitual offender, MCL 769.12, to concurrent prison terms of forty-six months to fifteen years for negligent homicide, seventy-six months to twenty years for UDAA, and forty-six months to fifteen years for resisting arrest. We affirm.

Defendant argues on appeal that offense variable three (OV 3), physical injury to a victim, MCL 777.33, was improperly scored at 100 points with regard to his UDAA conviction. Defendant contends that the deceased victim in this case was not a “victim” of the UDAA offense, but only of the negligent homicide offense. We disagree. This Court affirms sentences within the statutory sentencing guidelines range absent an error in scoring or inaccurate information relied on in determining sentence. MCL 769.34(10); *People v Leversee*, 243 Mich App 337, 348; 622 NW2d 325 (2000).

MCL 777.21(2) provides for the scoring of each offense, in accordance with the statutory sentencing guidelines, when a defendant is convicted of multiple offenses. UDAA is a property crime. See MCL 777.16u; *People v Hurst*, 205 Mich App 634, 638; 517 NW2d 858 (1994). MCL 777.22(2) provides that OV 3 is to be scored for all crimes against property. The scoring of OV 3 is governed by MCL 777.33 which mandates the assessment of 100 points if “a victim was killed.” MCL 777.33(1)(a). MCL 777.33(2)(b) further provides for the assessment of 100 points “if death results from the commission of a crime and homicide is not the sentencing offense.”

The statute in this case is clear and unambiguous; therefore, it must be enforced as written, with every word accorded its plain and ordinary meaning. See MCL 8.3a; *People v Fields*, 448 Mich 58, 67; 528 NW2d 176 (1995). Defendant argues that the decedent was not a “victim” of the UDAA offense. However, a “victim” is commonly understood to be “a person who suffers from a destructive or injurious action or agency.” *Random House Webster’s College Dictionary* (1997). Clearly, the deceased in this case was a victim of the UDAA offense; therefore, OV 3 was properly scored.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Mark J. Cavanagh

/s/ Patrick M. Meter